



ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2014-0643; FRL-9941-32]

Sulfoxaflor; Receipt of Application for Emergency Exemption, Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the Texas Department of Agriculture to use the insecticide sulfoxaflor (CAS No. 946578-00-3) to treat up to 3,000,000 acres of sorghum to control sugarcane aphid. The applicant proposes a use of a pesticide, sulfoxaflor, which is now considered to be unregistered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) owing to the vacature of sulfoxaflor registrations by the United States District Court for the Central District of California. In accordance with 40 CFR 166.24, EPA is soliciting public comment before making a decision whether or not to grant the exemption.

DATES: Comments must be received on or before *[insert date 15 days after date of publication in the Federal Register]*.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP-2014-0643, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <http://www.epa.gov/dockets/contacts.html>.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <http://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: Susan Lewis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW.,

Washington, DC 20460-0001; main telephone number: (703) 305-7090; email address: RDfRNotices@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through www.regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at <http://www.epa.gov/dockets/comments.html>.

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human

health impacts or environmental effects from exposure to the pesticide discussed in this document, compared to the general population.

II. What Action is the Agency Taking?

Under section 18 of the FIFRA (7 U.S.C. 136p), at the discretion of the EPA Administrator, a Federal or State agency may be exempted from any provision of FIFRA if the EPA Administrator determines that emergency conditions exist which require the exemption. The Texas Department of Agriculture has requested the EPA Administrator to issue a repeat specific exemption for the use of sulfoxaflor on sorghum to control sugarcane aphid. Information in accordance with 40 CFR part 166 was submitted as part of this request.

As part of this request, the applicant asserts that an emergency situation exists based on unusually high populations of sugarcane aphid (*Melanaphis sacchari*), which can cause direct plant death from aphid feeding as well as indirect damage and harvesting problems from the aphid honeydew residue in Texas sorghum fields. Based on information provided by the states in previous submissions, sugarcane aphid is either a new pest or new biotype of *M. sacchari*. Currently, there are no registered insecticides or any economically or environmentally feasible alternative control practices available to adequately control this non-routine pest infestation. The state has asserted that without the use of sulfoxaflor, uncontrolled aphid infestations are likely to result in significant economic losses.

The applicant proposes to make no more than two applications at a rate of 0.75 - 1.5 ounces of product (0.023-0.047 lb a.i.) per acre or a seasonal maximum application rate of 3.0 ounces of product (0.094 lb a.i.) per acre per year, resulting in the use of 70,314 gallons of product. A maximum of 3,000,000 acres of sorghum fields (grain and forage) may be treated in Texas. Applications would potentially be made through November 30, 2016.

This notice does not constitute a decision by EPA on the application itself. The regulations governing FIFRA section 18 do not expressly require publication of a notice of receipt of an application for a specific exemption proposing a use of a pesticide that has been subject to a judicial vacatur, however, EPA considers public notice appropriate in this instance. Accordingly, this notice provides an opportunity for public comment on the application.

The Agency, will review and consider all comments received during the comment period in determining whether to issue the specific exemption requested by the Texas Department of Agriculture.

Authority: 7 U.S.C. 136 *et seq.*

Dated: January 15, 2016.

Daniel J. Rosenblatt,

Acting Director, Registration Division, Office of Pesticide Programs.

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